

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

10-cr-141-wmc-1

GALE A. RACHUY,

Defendant.

After numerous delays at defendant's request,¹ a hearing on the probation office's petition for judicial review of Gale A. Rachuy's supervised release was held on May 29, 2019, before U.S. District Judge William M. Conley. The government appeared by Assistant U.S. Attorney Aaron Wegner. The defendant was present in person and with standby defense counsel Erika L. Bierma. Also present was Senior U.S. Probation Officer John F. Pick.

At the hearing, the court heard the government's evidence in support of the petition, including the testimony of five witnesses from two automotive dealerships in Duluth,

¹ See Motion to Reschedule Judicial Review (dkt. #178); Motion for Suppression Hearing (dkt. #191); Motion for Release Hearing (dkt. ##193, 196); Motion for Clarification Hearing (dkt. #206); and Order resetting judicial review due to recent influx of discovery requests by defendant (dkt. #217). At yesterday's hearing, defendant (who chose to represent himself) blamed the first of these delays on his then counsel's (now standby counsel's) inability to appear, suggesting now that he was prejudiced because certain tape recordings were in his possession at that time that would demonstrate his good faith interactions with his probation officer. Given defendant Rachuy's well-documented history of criminal fraud and repeated past prevarication, it is difficult to credit this representation at face value. Regardless, as to the delay, there is no going back, nor is the court particularly sympathetic given defendant's own, subsequent requests for additional delays, including a further request for an extension at the May 29 evidentiary hearing itself. As for the tapes, however, the court will issue a subpoena for their production on the person Rachuy claims possesses them.

Minnesota, and Supervisory Probation Officer John Pick, all of whom Mr. Rachuy was allowed to cross-examine extensively. At the close of the government's case, Mr. Rachuy asked that the record remain open so that he could offer the testimony of witnesses he has been unable to locate to date.

Although reluctant to delay resolution of the petition further, the court has agreed to attempt to subpoena two witnesses defendant claims will verify his version of certain interactions between Officer Pick and himself: Bradley Malinowski and Katie Sweeney. The court will also subpoena any document and tapes of conversations between the defendant and Pick purportedly in Mr. Malinowski's possession.

Both subpoena's will be returnable on June 6, 2019, at 1:00 p.m., at which time Mr. Rachuy may offer their testimony and the evidentiary record on the probation office's petition will be closed.

Entered this 30th day of May, 2019.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge